IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8529 OF 2005

Mrs.Archana D.Pachpande ...Petitioner
Versus
Mr.Dinesh M.Pachpande ...Respondent

Shri Pratap Bhosale i/b Shri B.G.Tangsali & P.C.Kadam
for the Petitioner.

Shri K.V.Tembe for the Respondent.

CORAM : S.C. DHARMADHIKARI, J.
DATE : JANUARY 10, 2006.

P.C.:

1. Rule. Respondent waives service. Heard forthwith by consent.

2. The order impugned in this petition is passed by the Joint Civil Judge, Senior Division, Thane on 10th October, 2005 in Matrimonial Petition No.211 of 2005. The respondent-husband has presented this petition against the petitioner-wife for a declaration that the marriage between them be annulled in terms of Section 12 of the Hindu Marriage Act, 1955. It appears from the record that the petitioner-wife could not appear before the Court below on the date fixed for appearance in the summons. It appears that her Advocate was busy in the Sessions Court and, therefore, on the returnable date was unable to remain present before the learned Judge. Therefore, an application was made by the petitioner-wife to recall

the order made earlier, namely, to proceed Exparte. That application being rejected by impugned order, the present petition under Article 227 of the Constitution of India has been filed by the petitioner-wife.

3. After perusing the petition and the annexures thereto including the impugned order, in my view, considering that the petitioner-wife is going to be affected by any adjudication in her absence and her status as wife would be in jeopardy, interest of justice necessitates that the order passed by the trial Court to proceed Exparte be quashed and set-aside. It is accordingly quashed and set-aside. Rule is made absolute in terms of prayer Clause 10(ii).

4. However, the parties shall now appear before the trial Court on 23rd January, 2006 and the trial Court shall thereafter proceed with the matter expeditiously and dispose of the same in accordance with law. The petitioner-wife to file her Written Statement within a period of four weeks from today. The trial Court shall endeavour to dispose of the main petition within a period of six months from today.

(S.C.DHARMADHIKARI,J.)